



COMMISSION NEWS

ARIZONA CORPORATION COMMISSION, 1200 W. WASHINGTON, PHOENIX, AZ 85007

TO: EDITORS, NEWS DIRECTORS
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UNREGISTERED PROMISSORY NOTES IN AUTO LEASING COMPANIES IS FOCUS OF COMMISSION ORDERS

PHOENIX – The Arizona Corporation Commission signed two consent orders with three individuals and one company involving the offer and sale of unregistered promissory notes in auto leasing companies. A Chandler insurance agent and a Mesa couple agreed to return a total of over \$925,612 to investors and to pay \$25,000 in penalties.

John E. Shannon and Rebecca F. Shannon

A Mesa couple, 33-year-old John E. Shannon and 25-year-old Rebecca F. Shannon, agreed to return \$671,054 to investors and pay \$15,000 in penalties for fraudulently selling unregistered promissory notes. The Shannons agreed to the order and admitted to the Commission's findings.

The Shannons were principals and managers of Money Tree Auto Services, doing business as Fast Cash Auto Leasing. The company purchased vehicles from cash-strapped individuals, leased the same car back to the individuals at above-market interest rates, providing the seller with immediate cash.

The Commission found that between February 2000 and January 2004, Money Tree Auto Services and the Shannons sold the promissory notes to at least 31 investors, most of whom reside in Arizona. The Shannons, however, were not registered to offer or sell securities within or from Arizona.

The Shannons promised investors annual returns ranging from 30 to 40 percent and issued personal guarantees when they or Money Tree Auto Services did not have adequate assets to make such claims. The Shannons assured investors that their investments were fully secured by the automobiles purchased with investor funds and

advised investors that the managers involved had extensive experience in the auto leasing business, which was not true. Additionally, the Shannons:

- Failed to disclose material facts regarding the investment's risk level;
- Issued false earnings statements regarding the financial health of Money Tree Auto Services;
- Failed to disclose that investor funds would be used for expenses not outlined in the promissory note, including business expenses, personal expenses and salaries, and
- Issued false account statements to investors, indicating a preservation of principal and accrued interest.

The Commission found that the Shannons paid off early investors with new investor money, which essentially constituted a fraudulent "Ponzi" scheme. Money Tree Auto Services filed for Chapter 7 Bankruptcy protection on January 22, 2004 in the U.S. Bankruptcy Court in Phoenix.

Theodore Mietzner and Southwest Capital Advisors, LLC

Southwest Capital Advisors, LLC, and 62-year-old insurance agent Theodore Mietzner of Chandler consented to a Commission order imposing a \$10,000 penalty and requiring the return of over \$254,558 to investors for selling unregistered promissory notes. The restitution figure represents the commissions Mietzner earned by selling the investments. Mietzner agreed to the order and admitted to the Commission's findings.

Although he is a licensed insurance agent, Mietzner is not registered to sell securities in Arizona. The Commission found that between 1997 and 2002, Mietzner sold promissory notes to at least 23 investors, most of whom were his insurance clients, family members or members of his church.

The principal amount of the investments sold by Mietzner totaled over \$2.2 million. Investors believed the money would be used to operate an auto-leasing business geared toward customers with high-risk credit.

Two different companies were the issuers of the promissory notes – American Automotive Group, Inc., and Independent Funding, Inc. Both companies used employees or sales agents like Mietzner to sell the promissory notes. Mietzner used his company, Southwest Capital Advisors, to facilitate the transactions.

In the American Automotive Group offering, investors were promised returns of approximately 18 percent on the secured notes over three years. Independent Funding, Inc., conducted its offering of promissory notes that were supposedly backed by auto loans held by a Utah used-car dealership. Independent Funding raised money from investors, then loaned money to the car dealership to fund its inventory.

The Commission is not the only regulatory body taking action against Independent Funding, Inc. The Securities and Exchange Commission filed a case against Independent Funding in 2003, a matter which is still pending.

Also in 2003, the Commission entered orders against three other respondents – Douglas Warren, Matthew Warren and Robert Bjerken – for selling promissory notes issued by American Automotive Group. The portion of the case concerning the promissory note issuer, American Automotive Group, is still pending.

Investor Advisory

Before investing, people should verify the registration of sellers and securities by contacting the Arizona Corporation Commission's Securities Division at 602-542-4242 or toll free outside the Phoenix metropolitan area and Arizona at 1-866-VERIFY-9. The Division's web site also has helpful information for investors at www.azinvestor.gov.

The Commission orders will be posted on the Securities Division website under Enforcement Cases as soon as they are signed by all of the Commissioners. To access the full text of the Commission orders, please check the web site in a few days: <http://www.azinvestor.gov/enforcement/enforce-orders.asp>.

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